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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,249	12/14/2006	Iyad Al Khatib	149300.00000	5502
25207 7590 04/03/2009 BRYAN CAVE POWELL GOLDSTEIN ONE ATLANTIC CENTER FOURTEENTH FLOOR 1201 WEST PEACHTREE STREET NW ATLANTA, GA 30309-3488				
EXAMINER				
JIANG, CHARLES C				
ART UNIT		PAPER NUMBER		
2416				
MAIL DATE		DELIVERY MODE		
04/03/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,249

Applicant(s)

KHATIB, IYAD AL

Examiner

CHARLES C. JIANG

Art Unit

2416

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-9 and 17-19 is/are allowed.
- 6) ☒ Claim(s) 1-6, 13-16 is/are rejected.
- 7) ☒ Claim(s) 10-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03/30/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/003)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date _____
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities: Claim 10 recites claim limitation “-ta<td(i-1)”. This is contrary to the specification. The Examiner recommends removing the negative sign in front of ta. Appropriate correction is required.
2. Claim 11 is objected to because of the following informalities: Claim 11 recites in the preamble: “any one of claim 7”. The Examiner recommends deleting “any one of”. Appropriate correction is required.
3. Claim 12 is objected to because of the following informalities: Claim 12 recites in the preamble: “the system according to of claim 7”. The Examiner recommends deleting the word “of”. Appropriate correction is required.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention in claims 1 is directed to a method, which is not sufficiently tied to another statutory class of patentable subject matter. Claim 1 does not describe sufficient detail as to what is performing the claimed calculations. Claims 2-6 depend on claim 1, thus are rejected for the same reason.
6. Claims 13-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention in claims 13-16 directed

to the judicial exception to 35 U.S.C 101 (a computer program product is software, like an algorithm, is not patentable) and is not directed to a practical application of such judicial exception, because the claim does not require any physical transformation (i.e. computer readable medium is not mentioned in the claim, nor is a computer processor) and the invention as claimed does not produce a useful, concrete and tangible result.

Allowable Subject Matter

7. Claims 7-9 and 17-19 are allowed.

8. The following is a statement of reasons for the indication of allowable subject matter: claims 7 and 17 contain limitations that are not found in the prior art, for

example, "wherein the speed v_i is represented by: $v_i = \left[\frac{S_{i+1}}{S_i} - 1 \right] * IS^{-1}$ ". Claims 8-9 are

allowable because they depend on claim 7. Claims 18-19 are allowable because they depend on claim 17.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Khatib, I. et al, Performance Analysis of Wireless LAN, http://web.it.kth.se/~ikhatib/lic/final/iyad_lic_final.pdf (last modified 05/16/2003, last visited 03/19/2009, see attached pdf file). The cited document is the inventor's doctoral thesis, which the current invention is based upon. Other relevant prior art include: Karagiannis, US2002/0024974 and Gusella, USPN5,408,465. Karagiannis teaches regulating jitter in DiffServ architecture, which involves measuring performance at a

node. Gussella also teaches ensuring quality of service in an admission control scheme, that also involves measuring performance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES C. JIANG whose telephone number is (571)270-7191. The examiner can normally be reached on M-F: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 517-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. C. J./
Examiner, Art Unit 2416

/William Trost/
Supervisory Patent Examiner, Art Unit 2416